

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Civil Action No. 5:20-cv-411

HELEN JO TALIAFERRO, et al.,

Plaintiffs,

v.

THE NORTH CAROLINA STATE BOARD  
OF ELECTIONS; et al.,

Defendants.

**DEFENDANTS'  
STATUS REPORT**

NOW COME Defendants, the North Carolina State Board of Elections (“NCSBE” or “State Board”), Karen Brinson Bell, Damon Circosta, Stella Anderson, Jeff Carmon, III, Stacy Eggers, IV, and Tommy Tucker<sup>1</sup> (collectively “Defendants”), to provide the Court with a Status Report pursuant to paragraph 11 of the Court’s June 15, 2021, Order. [D.E. 62, ¶ 11].

Pursuant to the Court Order, the State Board submits the following report regarding the July 2022 second primary and municipal runoff elections<sup>2</sup> and November 2022 statewide general election:

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<sup>1</sup> Former State Board Members Ken Raymond and David C. Black resigned their positions with the State Board and were replaced by Stacy Eggers, IV and Tommy Tucker. Pursuant to Federal Rule of Civil Procedure 25(d), as successor officers, Mr. Eggers and Mr. Tucker are automatically substituted as parties to this action.

<sup>2</sup> The July 2022 second primary and municipal runoff elections were not statewide elections, but rather involved only 15 counties and a limited number of contests. Due to the relative scale of the July elections, and pursuant to an agreement with Plaintiffs, all relevant information regarding those elections are produced in this status report alongside the November 2022 statewide general election.

**11(a) Data on the number of voters who requested an accessible format of their absentee ballot or communications related to voting because of a visual impairment, and the number of documents in accessible formats NCSBE provided broken down by accessible format type:**

In the July 2022 second primary and municipal runoff elections, no voters requested an accessible format of their absentee ballot other than the accessible electronic ballot, which was provided through the State Board's web portal. In these elections, 49 voters requested such accessible electronic ballots. Among those, 35 voters were sent a ballot through the portal; the remaining 14 voters submitted invalid ballot requests and so were not sent a ballot through the portal. Ultimately, of the 35 who initially submitted valid requests, two voters submitted their ballots through the portal, four voters voted by mail, three voters chose to vote in person, and the remaining 26 voters did not return their ballot.

Based on State Board review of county board records of these absentee ballot transactions for the July 2022 second primary and municipal runoff elections, in some instances, a voter who made a request was not eligible to vote in the election due to their affiliation with a political party different than the party whose primary was being conducted, or due to their residing in a municipality different than whose runoff election was being conducted.

In the November 2022 statewide general election, no voters requested an accessible format of their absentee ballot other than the accessible electronic ballot, which was provided through the State Board's web portal. In this election, 976 voters requested such accessible electronic ballots. Among those, 934 voters were sent a ballot through the portal. Of the remaining 42 voters who were not sent a ballot, 37 voters submitted invalid ballot requests and were not sent a ballot through the portal. When a voter submits a deficient request, there is a process to generate and send an invalid/incomplete letter notifying them of the deficiencies. Five voters were mistakenly identified as submitting invalid requests; however, two of these voters ultimately voted using other methods.

Ultimately, of the 934 who initially submitted requests and were sent a ballot through the portal, 189 voters submitted their ballots through the portal, 186 were accepted and three were deemed deficient. Within the same group, 128 voters voted by mail, 296 voters chose to vote in person, and approximately 326 voters did not return their ballot.<sup>3</sup>

Based on State Board review of county board records of these absentee ballot transactions for the November 2022 statewide general election, in some instances, a voter who made a request through the portal later realized that the portal was only available to the visually impaired and the voter was not visually impaired, so they chose to vote a different way.

For both the July 2022 second primary and municipal runoff elections and the November 2022 statewide general election, the State Board did not receive requests for accessible alternative formats of other voting- or election-related documents of the types discussed in footnote 4 of the Court's June 15, 2021, Order.

**11(b) Summaries of all complaints received (without identifying information) regarding the provisions of accessible document formats to individuals with visual impairments and NCSBE's responses to those complaints:**

The State Board received some complaints directly about the provision of accessible document formats to individuals with visual impairments during the July 2022 second primary and municipal runoff elections and the November 2022 statewide general election.

In September 2022, a county contacted the State Board requesting assistance in responding to a voter who was able to request and access a ballot through the portal but encountered issues once in the system. Specifically, the county stated that voter informed them the portal continued to “kick them out” and return them to the start screen. The voter then requested a paper ballot be

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<sup>3</sup> State Board records indicate 326 possible voters who did not return a ballot, but there is an apparent duplication within the data for this group that makes this number slightly different than expected by two voters.

sent. State Board staff investigated the issue; however, staff was unable to replicate the issue and determine its cause.

In October 2022, a voter called the State Board office, stating that they were getting a message that they were ineligible for election when accessing the portal. State Board staff spoke with the voter to explain the process and followed up with an email. The voter subsequently left a voicemail for staff indicating the issue remained. After staff was unable to reach the voter by phone, staff sent the voter an email with additional, detailed instructions. The voter did not further return staff calls or emails. Another voter contacted the State Board by email stating the same issue with the portal displaying a message that they were ineligible to vote. Detailed instructions were provided to the voter regarding the process of requesting and then accessing their ballot.

Also in October, a voter contacted the State Board by email regarding an error message from the portal. Staff requested more information about the error message to determine the cause; however, the voter had already resolved the issue on their own.

A voter also called in October expressing concern over an ability to get two witnesses to sign for them when using the portal. State Board staff spoke with the voter and answered additional questions about the process. And a visually impaired voter called the State Board in October because they could not easily read the absentee request form. State Board staff spoke with the voter about options for requesting a ballot through the portal and voting in person, and then provided that same information by email.

Finally, pursuant to the Court's Order, the State Board has today served on the Plaintiffs a report detailing the items in Paragraph 12 of the Order.

Respectfully submitted this the 6th day of February, 2023.

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